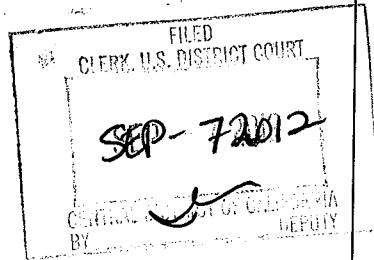


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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

EVANGELINE RED and RACHEL WHITT, on Behalf of Themselves and All Others Similarly Situated,

Plaintiffs,
vs.

KRAFT FOODS INC., KRAFT FOODS NORTH AMERICA, and KRAFT FOODS GLOBAL, INC.,

Defendants.

No. CV10-01028-GW (AGRX)

**[PROPOSED] ORDER
CONFIRMING DEFENDANT'S
DECISION NOT TO USE
CERTAIN PHRASES ON FUTURE
PACKAGING**

Judge: Hon. George H. Wu
Action Filed: February 11, 2010

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
2 NOTICE THAT, on August 23, 2012, in Courtroom 10 of the federal courthouse located
3 at 312 N. Spring Street, Los Angeles, CA 90012, the Honorable George H. Wu presiding,
4 a hearing was held on Plaintiffs' Second Renewed Motion for Class Certification.
5 Counsel for the parties appeared at the hearing.

6 In their Second Amended Complaint, Plaintiffs alleged that the labeling of Kraft
7 Foods products set forth below was misleading because the products contained certain
8 amounts of one or more of the following ingredients: partially hydrogenated vegetable
9 oil (trans fat), white flour, disodium guanylate, high fructose corn syrup, monosodium
10 glutamate, and sugar. Dkt. No. 58.

11 Plaintiffs in their most recent request for class certification (Dkt. No. 236-18)
12 proposed the following ten subclasses:

- 13 (1) The Ginger Snaps Subclass: All persons who purchased in California, between
14 April 1, 2008 and December 31, 2010, Ginger Snaps in packaging bearing the
15 phrase "Sensible Solution" and "Made with Real Ginger & Molasses!"
- 16 (2) The Vegetable Thins Subclass: All persons who purchased in California, on or
17 after January 1, 2007, Vegetable Thins in packaging bearing the phrases
18 "Vegetable Thins" and "made with real vegetables," and displaying images of
19 vegetables.
- 20 (3) The Premium Saltines Subclass: All persons who purchased in California,
21 between February 11, 2006 and June 30, 2011, Premium Saltines in packaging
22 bearing the phrases "Sensible Snacking," or "Sensible Solution."
- 23 (4) The Teddy Grahams I Subclass: All persons who purchased in California,
24 between April 1, 2006 and June 1, 2009, 10-ounce or 9.5 ounce varieties of Teddy
25 Grahams in packaging bearing the phrases "Teddy Grahams," and at least one of
26 the following phrases: "wholesome," "Sensible Snacking" or "Sensible Solution."
- 27 (5) The Teddy Grahams II Subclass: All persons who in California, between January
28 1, 2009 and December 31, 2011, 10-ounce or 9.5-ounce varieties of Teddy
Grahams in packaging bearing the phrases "Teddy Grahams," "Graham," and at
least one of the following phrases: "Smart Choices," or "help support kids' growth
and development."
- 28 (6) The Honey Maid Grahams Subclass: All persons who purchased in California,
between February 11, 2006 and April 1, 2010, Honey Maid Grahams in packaging

bearing the phrases "Honey Maid Grahams," "Honey," "Graham(s)," displaying honey imaging (including photos or graphics of flowing honey, honeycombs and bees), and bearing at least one of the following phrases: "wholesome," "Nutritionists Recommend," Steps to a Healthier You," "Sensible Snacking," or "Sensible Solution."

- (7) The Ritz Whole Wheat Subclass: All persons who purchased in California, between January 1, 2007 and June 30, 2010, the Whole Wheat variety of Ritz Crackers in packaging bear the phrase "Sensible Solution," "Steps to a Healthier You," "Nutritionists Recommend," and "Whole Wheat."
- (8) The Ritz Reduced Fat Subclass: All persons who purchased in California between February 11, 2006 and June 30, 2010, the Reduced Fat variety of Ritz Crackers in Packaging bearing the phrases "Sensible Snacking" or "Sensible Solution."
- (9) The Ritz Low Salt Subclass: All persons who purchased in California, between January 1, 2007 and June 30, 2010, Low Sodium or Hint of Salt varieties of Ritz Crackers in packaging bearing the phrase "Sensible Solution."
- (10) The Ritz Roasted Vegetable Subclass: All persons who purchased in California, on or after February 11, 2006, the Roasted Vegetable variety of Ritz Crackers in packaging bearing the phrases "Roasted Vegetable Ritz" and "made with real vegetables," and depicting images of vegetables.

At the August 23, 2012 hearing and in the Declaration of Senior Vice President Jay Cooper, Defendant Kraft Foods stated that it had ceased using certain of the challenged statements on its product packaging for the Kraft Foods products included in subclasses 1, 3, 4, 5, 6, 7, 8 and 9. The Court concluded that certain of Plaintiffs' claims would be rendered moot if Defendant agreed to enter into a court order that affirmed the representations made by Defendant in the Cooper Declaration. Dkt. No. 245. Defendant has agreed to do so.

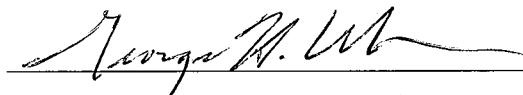
The Court hereby ORDERS that Defendant Kraft Foods: (1) shall not use the phrase "Sensible Snacking" as depicted in the packaging submitted with the Second Amended Complaint on any future Original Premium Saltines, Teddy Grahams, Honey Maid Grahams, or Ritz Crackers Reduced Fat packaging, advertising, or marketing material; (2) shall not use the phrase "Sensible Solution" as depicted in the packaging submitted with the Second Amended Complaint on any future Ginger Snaps, Teddy Grahams, Honey Maid Grahams, Ritz Crackers Whole Wheat, Ritz Crackers Reduced

1 Fat, Ritz Crackers Hint of Salt, or Original Premium Saltines packaging, advertising, or
2 marketing material; (3) shall not use the phrase "Help Support Kids' Growth and
3 Development" as depicted in the packaging submitted with the Second Amended
4 Complaint on any future Teddy Grahams products; and (4) shall not use the phrase
5 "Smart Choices" as depicted in the packaging submitted with the Second Amended
6 Complaint on any future Teddy Grahams packaging, advertising, or marketing material.
7 However, nothing contained herein shall apply to any remaining previously printed
8 packaging that is currently in the marketplace or is in the process of being used up as
9 noted in the Cooper Declaration. This order applies only to current formulations of Kraft
10 Foods products based on their current ingredient list, weight by percentage of ingredients
11 and nutritional profile. Defendants' agreement to this effect shall not be construed as an
12 admission of liability or as evidence of any wrongdoing.¹

13 The Court also hereby DENIES class certification to Plaintiffs' proposed
14 subclasses 1, 3, 4, 5, 6, 7, 8, and 9 pursuant to the findings made in the Court's
15 August 23, 2012 tentative order (Dkt. No. 245).

16 IT IS SO ORDERED.

17 DATED: September 7, 2012



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19 The Honorable George H. Wu
U.S. District Court Judge
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26 It is the Court's understanding that Kraft Foods will transfer the Snacks &
27 Confectionery Business Unit to a separate corporate entity named Mondelez Global LLC
28 as part of a transaction that will culminate in the creation of two separate companies at
the close of business on October 1, 2012. This order will apply to Mondelez Global LLC.